

Guide to Understanding Street Lights

City of Billings

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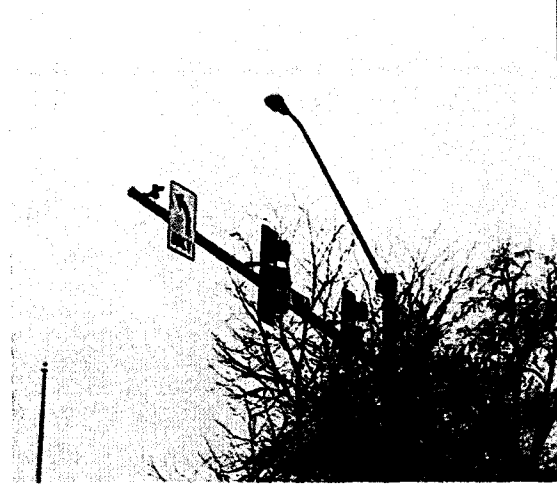
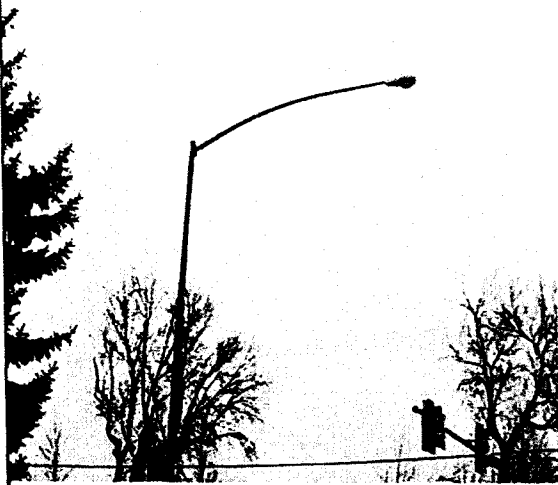


Table of Contents

Topic	Page
Overview	2
What is the purpose of street lighting?	2
What are Illumination Standards and how to they impact street lighting?	2
Who is responsible for street lights in the City of Billings?	2
What are the different types of street light installations?	4
What entities have governance over street lighting?	5
How is a street light district created?	5
Steps to create special improvement lighting district (SILD)	6
How are street lights paid for?	8
How are street light costs determined by the City and the utility?	9
Additional questions about street lighting	10
Appendix A: Lighting Illuminance Design Criteria	
Appendix B: Billings Street Light Districts	
Appendix C: Montana Code Annotated	
Appendix D: Montana PSC Street Lighting Tariffs	
Appendix E: Sample Street Lighting Agreement	
Appendix F: Sample Street Lighting Resolution	

Overview

This guide was prepared as a joint effort between the City of Billings staff and NorthWestern Energy to provide educational background information on the basics of street lighting. Topics include: the City's role in street lighting, formation of street light districts, entities with jurisdiction for street light districts, types of street light districts and how street light costs are managed and assessed to property owners.

The creation of a street light district is a very public process and unique in the involvement of property owners from the very beginning of the process. Through the process of forming the street light district property owners in essence elect to be taxed in order to receive the benefits of street lights. Often property owners even assist with the formation of the district by carrying petitions to get signatures of property owners in the proposed district to support the creation of the district. Street light districts are created and governed under state laws that must be followed in the process. City staff and engineers are involved from the beginning in overseeing the layout and design of the district to meet proper illumination standards and in determining the assessments for the property owners. In this guide the districts are referred to as either Special Improvement Light Maintenance Districts (SILMDs) or Special Improvement Light Districts (SILD) and in general these terms can be used interchangeably.

What is the purpose of street lighting?

Street lighting in the City of Billings is generally provided through a neighborhood street lighting district to increase night time traffic safety and security. Property owners sometimes think street lights are installed for crime prevention and lighting does serve as a deterrent to crime but the primary purpose for street lighting is to provide better visibility at night on roadways and intersections to prevent accidents. Numerous studies have been conducted to determine the positive impact of street lighting on the reduction of accidents. A study done by Rune Elvik¹ indicated a 65 percent reduction in nighttime fatal accidents, 30 percent reduction in injury accidents, and 15 percent reduction in pedestrian accidents for both intersections and roadway segments on rural, urban, and freeway facilities when street lighting was installed.

What are Illumination Standards and how to they impact street lighting?

Street lighting is designed to illuminate the roadways to a certain IES (Illuminating Engineers Society of North American) standards based on the type of street traffic such as residential, arterial, collector, or highways. (See Appendix A at the back of this report.) Proper illumination of the street is critical to meet national lighting standards and the City of Billings utilizes the IES national standards when designing and approving the design of street lighting layouts. IES standards have been utilized in the lighting industry for over a century to insure that lighting professionals design lighting to insure proper illumination for safety.

Who is responsible for street lights in the City of Billings?

In the City of Billings there are 183 street light districts in the and approximately 8,000 individual street lights that are owned by the City and the utility. There are different types of ownership of street light districts and installations within the city and some are under the jurisdiction of the City of Billings and some are the responsibilities of other entities. A breakdown of the number and type of lights in each district and ownership responsibilities can be found in Appendix B at the back of this report.

¹ "Meta-Analysis of Evaluations of Public Lighting as Accident Countermeasure." Report 1485. Transportation Research Record, 1995. Elvik (1995). This was a meta-analysis of 37 published studies, reported from 1948 to 1989 in eleven different countries, evaluating the safety effects of lighting. Analysis of the different studies indicates roughly a 65 percent reduction in nighttime fatal accidents, 30 percent reduction in injury accidents, and 15 percent reduction in pedestrian accidents for both intersections and roadway segments on rural, urban, and freeway facilities when lighting was installed. The effect of installing lighting was greater at intersections than non-intersections and similar results were found for rural, urban, and freeway roadways.

CITY OF BILLINGS RELATED STREET LIGHTING

- **City Owned Street Lights** are installed and maintained by the City of Billings on behalf of the specific property owners in each district. These districts typically involve the creation of a SILMD in order to collect from the property owners the costs of the ongoing maintenance and utility costs and the creation of a separate SID (Special Improvement District) to cover the initial installation costs. These lights can be either unmetered lighting or in newer City owned districts the street lights are installed with a meter(s) to measure the utility costs associated with operations of the lights. These districts would still take utility services for the electric supply and delivery and are generally maintained by the City staff.
- **Utility Owned Street Lights** are installed, owned and maintained by NorthWestern Energy and are ongoing lease light type installations. These utility owned street lights were installed again at the request of property owners in each specific district following state laws. The costs or rates for the utility owned lights are under the jurisdiction of the Montana Public Service Commission (PSC) tariffs and referred to as "utility owned" in the tariffs or in contracts with the City as 'company owned'. These lights are generally installed as unmetered street lights. When the district is created the property owners are informed of the ongoing charges for utility owned districts and that no SID is created to pay off utility owned street lights.
- **Yellowstone Valley Electric Cooperative** provides electric service to one street light district.
- **Park and Special Application Lighting** are installed in various public spaces such as city parks and some of these lights are utility owned lighting and billed under the utility street lighting rates set by the Montana PSC. Some of these park or area lights may also be City owned lights.
- **Intersection signals and pedestrian control devices** are not considered street lights but in many cases the signal arms may also contain street lights mounted on the signal poles. If there are street lights installed on signal poles within a street light district the actual street lights are generally included in the district and the signals are generally metered.

Street Lights Under Jurisdiction of Other Entities

- **The Montana Department of Transportation (DOT)** also has street lights that have either been installed directly by the DOT, utility or the City and these types of street lights are generally on designated highways. The Montana DOT has authority over the design and light levels for streets designated as a highways. The ongoing maintenance and utility costs for these lights may be the responsibility of the Montana DOT and these lights may not be a true light district. Or, in some cases even the DOT may have installed the lights but the responsibility for maintenance and energy costs for these lights have been transferred to the City and a district is created and the property owners pay for the ongoing costs. An example of this is the new Shiloh Road street lights which were installed and paid for by the Montana DOT as a part of that highway widening project but the ongoing maintenance and energy costs will be assessed to property owners.
- **Yellowstone County Street Lighting** is installed in some of the rural areas around Billings as rural special improvement districts and is paid for by the local county government.
- **Developer or Private Parking Lot Lights** are not street lighting and are generally considered private property if installed by the developer or property owner directly. These lights are not under the jurisdiction of the Montana Codes in regards to installation. However, the City can through building requirements work with developers to insure that these private parking lights met a 'dark skies' requirement to install cutoff fixtures which will keep the light from washing onto adjoining property owners. Some private property owners also have lease light agreements with the utility and the utility installed and maintained those lights. These utility lights can appear to even look like street lights in style and are sometimes mounted on existing utility poles along the edges of streets but the lights would be directed towards the property and not the street. Private lights can also include college campus lighting projects which are not street lights and yard lights on private streets in developments with private streets like townhouse developments or in some cases mobile home parks with private streets.

What are the different types of street light installations?

There are dozens of different types of street light installations located throughout the city. There are lamp wattages including 70, 100, 150, 200, 250 and 400-watt high pressure sodium lamps in the various districts. There are a number of reasons for the wide variety of different types of street light wattages, poles, arms and fixtures in the different districts. One of the most significant reasons for variation in the styles and types of street light fixtures/poles has to do with the illumination levels required for the type of streets in a specific district. For example, residential area streets with lower illumination level requirements can have lights installed with lower wattage lamps (70 watt HPS) and on shorter poles to meet the illumination requirements. Whereas, the illumination requirements for a major arterial street will require generally higher wattage lamps as well as taller poles and longer arms to get the light illuminated across several lanes of traffic.

For example, in examining just all the 100-watt High Pressure Sodium (HPS) street lights installed across the city there will be a wide variety of different types of installations depending on the specific street light district. The energy costs associated with operating a 100-watt HPS lamp would be the same, but the initial installation costs can vary between districts depending on a number of factors including the following.

- **The Type of Pole and length of fixture arm** can greatly impact the costs of the street light project. Wood poles are less expensive than steel or fiberglass poles. However, even for wood poles the cost of installation varies depending on if the street light is installed on an existing distribution utility wood (which would have not cost) versus an installation that requires installing a new dedicated wood pole. The length of the pole can also vary based on the lighting requirements needed for the specific street and the longer the pole the more expensive the pole. Street lights can also have arms that the fixture is mounted on that vary from 6 to 10 feet for cobra type installations. For example, in a commercial area taller poles maybe be needed to properly light the wider streets and the length of the fixture arm can also vary as streets with multiple lanes may require longer arms in order to illuminate across several lanes to meet the required lighting standards. Some street lights also have 'twin' arms to mount two street light fixtures.
- **Special or custom ordered pole or fixtures** such as special decorative fixtures like historic acorn or globe style fixtures that were custom ordered for a district would be more expensive then standard steel or fiberglass poles with cobra arms.
- **Overhead versus underground wire installation** impacts the street light installation as overhead wiring installations generally have lower installation costs than a district installed with underground wiring. Underground wiring installations incur additional expense for materials and for the trenching and possible boring costs to go under driveways or sidewalks if necessary.
- **Date or time frame when the district was installed** will greatly impact the original installation costs as the price of the fixture/poles themselves increase through the years. Generally the lower the district's SILMD number the older the district (districts under 100) and most of the lights in these districts would have been installed in an earlier time period then districts with SILMD numbers in the 200's and 300's. Obviously if one district had lights installed 20 years ago the cost of installation would have been less then a district installed in the just the past 5 years even for the same type of light as materials and labor would have gone up over the 15 years.
- **The size of the district** can impact the cost as a larger district may require more individual lighting units but the utility or city may be able to take advantage of better volume pricing from the lighting fixture or pole manufactures for a larger order that could result in a lower per fixture cost.

What entities have governance over street lighting?

- **The City of Billings** has an official role as the government entity that is allowed by law to collect and establish the assessments from each property owner in each district in order to pay for the costs of each district. The City also has the jurisdiction to require policies such as 'dark skies' which requires new street light installations to have a 'cut off' fixture that directs the light straight down towards the street to eliminate a 'wash' of light around the street light. Also, for existing street light if the fixture head needs replacing then new heads are required to be changed to a cut-off fixture.
- **City of Billings & Utility Contracts and Resolutions** - There are official contracts between the City of Billings and NorthWestern Energy (and predecessor Montana Power) which provide governance over the installation, maintenance and ownership of utility owned street lighting as well as projected costs at the time of installation for the street lights. The original Resolution creating the district that is approved by the City Council also contains specific language and governance over the creation of the district and defines ownership and responsibilities as well.
- **Montana Public Service Commission** has jurisdiction over the tariffs or rates for utility services for street lights for both City-owned lights and utility-owned lights. A copy of the current utility tariff is attached at the end of this report.
- **The Montana Code Annotated (MCA)** contains the state laws relating to the formation of street light districts and the way in which districts are assessed, removed or altered. See Appendix B for a copy of the MCA.
- **The Montana Department of Transportation (DOT)** has oversight jurisdiction on street lights installed on designated highways and in some cases the street lights are billed to the DOT and in other installations the maintenance and operation costs may be billed to the City.

How is a street light district created?

The process of creating a new street lighting district is a very public process governed under the jurisdiction of state laws of the *Montana Code Annotated, Title 7 Local Government, Chapter 12 Improvement Districts* (see Appendix B). These districts are referred to as either Special Improvement Light Districts (SILD) or Special Improvement Lighting Maintenance District (SILMDs) and the City generally refers to the districts as SILMD's and these terms are generally interchangeable. A very specific process must be followed to form a street light district to allow for full disclosure and participation by the property owners within the boundaries of the district.

An SILMD can be created through petition with signatures of over 50 percent of the property owners of an area needing lights. A district can also be initiated by the City as long as fewer than 50 percent of the property owners protest in writing. Property owners can have an SILMD assessment even if they don't have lights on their specific street. This is because there may be arterial street lighting or intersection lighting within in the area of the boundaries of the district. For a complete detailed explanation of this process please refer to the Montana Code Annotated contained in this guide.

The City Engineer will initially ask for a petition from the neighborhood that is requesting street lighting and will work with the neighborhood to create an SILMD if over 50 percent of the property owners indicate a willingness to proceed with the street lighting. The costs for the lighting will be assessed to the property owners in the district. Average residential costs are around \$100 – \$120 per year for an average size lot that would be installed with the lower wattage residential type light fixtures.

Steps to create special improvement lighting district (SILD)

Here is an overview of the various steps to create a lighting district and there is a slight variation if the district is a City owned district or a utility owned district and each step is explained in more detail below.

- 1. Formation and Design Phase**
- 2. Petition Phase**
- 3. Final District Design Phase**
- 4. For Utility Owned Districts A Contract is Drafted**
- 5. For City Owned Districts the Bond Department is Contacted**
- 6. City Engineer Submits Request to City Council for Creation of SILMD**
- 7. City Council Passes a Resolution of Intention to Create a SILMD**
- 8. Notice of Passage of Intention to Create SILD & Protest Stage**
- 9. City Council Hearing and Final Official Resolution To Create District**

- 1. FORMATION & DESIGN PHASE.** Generally an applicant representing the property owners in the proposed district contacts the City Engineer to indicate an interest in developing a street light district.
 - The City Engineer determines the boundaries of the proposed district, type of lighting required to meet illumination standards for the street lighting design, and determines the number of lighting fixture and the potential costs. The smallest a district can be is one block.
 - The City engineer determines the method of how the costs of the district will be shared on a pro rata bases for each property owner. Generally each property is charged it's pro rata share of the district's cost based on the number of square feet in each lot (MCA 7-12-4323) but the engineer can also determine if a more equitable method would be based on linear frontage of each lot and this is allowed in the Montana codes (MCA 7-12-4324).
 - The City Engineer also generally fully explains the options the property owners have for the type of ownership for the district. The SILD can be either a City owned district or a utility owned district. A City owned district will require the City to finance, bond and collect a larger upfront SID (Special Improvement District) for the actual installation costs for installing the lights, but once that SID is paid off after about 7 years the City then just collects the SILMD costs for the maintenance and energy costs of the City owned lights.
 - For a utility owned district there are no upfront installation costs to the property owners as these are ongoing lease lights and they are never paid off. The utility owned district results in an ongoing fee to the property owners that is initially the lower cost option when the district is initially formed. Historically, the City has more utility owned districts installed because they don't require the upfront SID costs and generally the break even point for property owners has been about 20 years before the property owners would have paid the same amount in utility payments as the costs paid in the original SID for a City owned district. For the property owners trying to convince other property owners in the potential district to agree to the street lights generally the lower utility owned lighting option is preferred since many property owners don't stay in the same home for 20 years.
 - The exception has been in recent years where several City owned street light districts were able to access funding for the installation costs of the City owned lights from a tax increment finance district or a commercial development paid for the installation of the street lights. In this case it keeps the costs to the majority of the property owners in a district down to maintenance and operation costs only since the TIF or commercial development paid for installation.
 - Based on the discussions with the property owners if the district is going to be a utility owned district the City Engineer contacts NorthWestern Energy and asks for the utility to do an a street light design and come up with the estimated costs of installing the district as this information is required to establish the utility ownership charge for the district.

2. **PETITION PHASE.** Generally before too much City or utility staff time is spent on the final design the City Engineer will ask that the property owner representatives to carry a petition and get signatures from the majority of the property owners in the proposed district to gauge the interest of the property owners in having the district. To do this the City Engineer provides the property owners with an estimate of the per square footage cost for the district for the first year for the property owners.
3. **FINAL DISTRICT DESIGN PHASE.** If the property owner representatives are able to get the majority of the property owners to sign a petition in favor of the creation of the SILMD then the City Engineer and the utility company will finalize the design and costs for the district.
4. **UTILITY OWNED DISTRICTS WILL REQUIRE THE DRAFTING OF A CONTRACT.** The utility and the City will draft a contract outlining the specifics of the utility owned district and the first year costs as required by Montana law. This contract will also include language specifically outlining the ownership of the street lights and the maintenance responsibilities. (A sample contract for a utility-owned street light district is found in Appendix E of this report.)
5. **CITY OWNED DISTRICTS WILL REQUIRE BONDS FOR THE INSTALLATION COSTS.** If the district is installed by the City then the a bond will have to be issued to secure the financing for the installation costs and this is done similar to most SID bond processes and requires sending the proposal to the City's Bonding department.
6. **APPLICATION SUBMITTED TO CITY COUNCIL FOR RESOLUTION OF INTENTION TO CREATE A SILMD.** After all the design and costs have been finalized and all contracts or bonding information gather then the City Engineer generally on behalf of the property owners submits to the City Clerk a packet of information on the creation of the SILMD so the clerk can get the proposal on the City Council agenda. Info that must be included with request: (1) Number/type of lighting fixtures, (2) Number/type/height of poles, (3) Electrical/maintenance cost per fixture per month, (4) Total square footage of area to be assessed, (5) Exhibit map showing the boundaries of the district and the location of lights. Include street names (i.e. Lot 1, Block 1) and lot boundaries and lot numbers. (6) Exhibit which provides the legal description of the boundary of the district, (7) Exhibit with a list of property owners and their addresses of all properties within the district including any contracts for deeds and anyone with interest in the properties, (8) a copy of the utility contract between NorthWestern Energy and the City for utility owned lights, and (9) any documents related to bonds required for a City owned SID lighting district.
7. **CITY COUNCIL PASSES A RESOLUTION OF INTENTION TO CREATE A SILMD (MCA 7-12-4302).** The resolution of intent to create the SILMD shall designate the number of such district, describe the boundaries thereof, and state therein the general character of the improvement or improvements to be made and an approximate estimate of the cost thereof, an approximate estimate of the cost of maintaining such lights and supplying electrical current therefore for the first year, and the proportion of such cost to be assessed against the property embraced within the district. The property's to be included will also be identified and generally there is a map. In regards to ownership the resolution will clearly state who owns the lights the city or the utility depending on if this is a City owned district or utility owned district. There is an example of a Resolution passed by the City Council in June 2002 for SILMD 277 in Appendix F at the back of this report and here is an excerpt from that resolution that defines the ownership of the lights.

Section 5: That the City of Billings intends to establish the approximate contract rate for supplying materials, installation electrical energy and maintenance as follows; \$32.94 per 100 watt unit, in accordance with the rate schedule LS-1 approved by the Montana Public Service Commission. That NorthWestern Energy shall provide energy to the lighting fixtures and shall provide normal maintenance to lighting fixtures poles, cables and other incidental equipment and at all times own said lighting fixtures, poles cables and other incidental equipment. Property owners within said district shall be assessed for the costs thereof.

8. **NOTICE OF PASSAGE OF INTENTION TO CREATE SILD & PROTEST STAGE** (MCA 4-1-4127). Upon passing the resolution of intention a notice must be published and notices mailed to every person, firm or corporation having property within the proposed district. The notice must describe the general character of the improvement proposed to be made, state the estimated cost of the improvement and the estimated cost of maintaining the lights and supplying the electrical current for the improvement and lights within the district for the first year, and designate the time when and the place where the council will hear and pass upon all protests. There is then a 15-day protest period as defined by the Montana Codes to allow for property owners to protest the formation of the SILD. (MCA 7-12-4304 & 7-12-4305).
9. **CITY COUNCIL HEARING AND FINAL OFFICIAL RESOLUTION TO CREATE DISTRICT** (MCA 7-12-4306). Once the protest period has been allowed and there are not a majority of protests or the protest received have been deemed to be insufficient the City Council shall have a hearing and pass a resolution finally creating the official SILMD. Then the installation of the district can begin. A special account for the district will also be established by the City to keep all costs and taxes collected that are associated with the specific SILMD separate as required by law.

How are street lights paid for?

Each light district pays its own cost based on the number of lights and area it serves. The City acts as a collecting agent for NorthWestern Energy for the utility owned districts and for the City owned districts. The City is also responsible for placing these costs on the tax rolls each year for every individual district and property owners in each district since the financial responsibility of the district belongs to the property owners.

- **MONTANA CODE ANNOTATED 7-12-4331 OUTLINES THE APPORTIONMENT OF COSTS.**
The way street lighting districts costs are accessed to the property owners are clearly spelled out in the Montana Code Annotated section 7-12-4331. *The portion of the entire cost of erecting and maintaining the posts, wires, pipes, conduits, lamps, and other suitable or necessary appliances for the purpose of lighting said streets or public highways and of the annual cost of supplying electrical current for and maintaining the lights thereon in such districts, all or any portion as shall be determined by the city or town council, shall be borne by the property embraced within said district.*
- **SPECIAL FUND MUST BE SET UP AND IDENTIFIED FOR EACH DISTRICT.** Each district is accounted for separately and must be clearly identified as a specific fund with the Special improvement Lighting District Number established per MCA 7-12-4331, 7-12-4334 and 7-12-4341. All funds for each district are kept in that district. The money in each district is invested and the interest is used to help pay the costs for that district reducing costs to property owners. It is the responsibility of the City of Billings Finance Director to insure that all assessments to property owners are properly accounted for and in the specific district fund. By statue the City cannot mix street light district funds collected through assessments and any costs or savings associated with improvements in a specific district must remain with each specific district.

For example, if a City owned district has a pole damaged by an accident, the funds to install a replacement pole can only come from that specific district's funds. Or, if a new more energy efficient lighting installation resulted in energy savings to a specific district all of those cost savings would have to be passed directly back to the property owners in the boundaries of that district as well as any costs associated with the upgraded installation. The savings could not be used by the City of Billings to fund installations in other street light districts nor to fund any other City of Billings general fund activities.

- **CITY OWNED DISTRICTS THAT REQUIRE ISSUING OF BONDS FOR INSTALLATION OR IMPROVEMENTS FOLLOWS MCA.** For the City owned district the costs associated with the financing and letting of bonds for the installation of the City owned street lights falls under the *Montana Code Annotated Title 6, Chapter 12, Part 42, Special Improvement Districts*, which outlines the process that must be followed for creating an SID and issuing bonds for the financing of the installation costs of the City light district.
- **ANNUALLY THE CITY COUNCIL MUST PASS A RESOLUTION TO DETERMINE ASSESSEMENT FOR EACH DISTRICT.** Once a year per *the MCA 7-12-4328 and 7-12-4332* the City Council will pass a resolution to provide for the assessment of the costs for each district for the coming year and this must be done on or before the first Monday in October. General all the SILMD charges are calculated and sent to the County for inclusion on the tax rolls before September each year. The amount assessed is for the next calendar year and estimated based on the utility rates anticipated for the next calendar year. Before these costs are sent to the County the City Council is required to pass and adopt a resolution levying and assessing all of the property embraced within each said district with the costs associated with each specific district for the next year.

How are street light costs determined by the City and the utility?

ADMINISTRATION COSTS ARE ACCESSED BY THE CITY FOR COLLECTING TAXES AND PAYING BILLS. The City of Billings is allowed to add on an administration fee to all the street light districts whether they are utility or City owned to cover the costs of administering the payments on behalf of the districts and properly allocating the taxes each year. The City of Billings charges an administrative fee that is adjusted annually and this is a flat per light annual fee of \$23.28 regardless of the type of light and this cost will be added to the total costs of each district according to the number of lights contained in each district.

CITY OWNED DISTRICTS COSTS

City owned districts include several billing components that are collected as part of the assessment to the property owners.

- **NorthWestern Energy utility costs** associated with the City owned lighting districts) are sent to the City to pay on behalf of each district. The utility charges for the City owned districts (defined as 'customer owned' in Montana PSC tariffs) include **energy (supply) and delivery charges** based on a kilowatt hour usage for each light. There is also a **per light billing fee for customer owned lights** that are unmetered and this is \$.23 per light so districts with large quantities of city-owned lights such as SILMD 13 with 1,171 unmetered lights has a monthly billing charge per tariffs of \$269.33. The utility charges are under the jurisdiction of the Montana PSC and defined in the *Montana PSC tariffs: Schedule No. EDSS-1 Electric Default Supply Service, Schedule No. ELDS-1 Electric Lighting Delivery Service (attached)*, and also miscellaneous changes in *Schedule E-USBC-1 Electric Universal System Benefits Charge and Schedule No. CTC-QF-1 Competitive Transition Charge for Qualifying Facilities*. Cities are also allowed to enter into maintenance and operations contracts with the utility to maintain the City owned lights and if that has occurred there would be additional maintenance and operation fees defined in the tariffs. The city generally operates and maintains the City owned lighting.
- The City collects a **maintenance fee** on the City owned lights as determined by the City.
- If the district is still paying for the **SID on the original installation** of the City owned lights this fee will be collected as part of the assessment and generally this cost shows up as a separate SID line item on property tax statements in addition to the SILMD maintenance and utility costs for the City district.

UTILITY OWNED DISTRICTS

For utility owned street light districts the utility costs are under the jurisdiction of the Montana PSC and a copy of the current lighting tariff is attached at the end of this guide. Utility owned street lights are referred to as 'utility owned' in the Montana PSC tariffs.

- **Energy or supply charges** – this is the cost for the actual electricity supply for the light and is listed in the *Montana PSC Schedule No. EDSS-1 Electric Default Supply Service* tariff.
- **Ownership charge** – all utility owned street lights are lease lights and have historically been a lease light rate type design. The ownership charge is based on the initial cost of installation of a district and are established based on the total costs to install each particular district and are a per light fee. This is an ongoing fee and it is never paid off and this charge is fully disclosed to property owners as part of the total first year estimated cost for the light as required by Montana codes. Ownership charges are listed in the *Montana PSC Schedule No. ELDS-1 Electric Lighting Delivery Service* tariff which is attached in Appendix D.
- **Distribution and Transmission and operations maintenance charges** are the costs for delivering the electricity and are contained in the *ELDS-1 Electric Lighting Delivery Service* tariff and are a per kilowatt hour charge. There is also an operations charge per light in the each district and a maintenance charge per light.
- **Miscellaneous charges** the utility collects including a USBC (Universal Systems Benefit Charge) under the *Montana PSC Schedule Schedule No. E-USBC-1 Electric Universal System Benefits Charge* and a CTC-QF charge under the *Montana PSC Schedule No. CTC-QF-1 Competitive Transition Charge for Qualifying Facilities*. These are a per kwh cost.

Additional questions about street lighting

- **QUESTION: Are the street lights districts allowed to add lights or remove lights without having to go through the entire petition process again?**

ANSWER: Yes. By Montana statutes (MCA 7-12-4354) the City is allowed to make minor modifications to a district such as adding individual lights or removing lights as long as this either results in a reduced assessment to the property owners or doesn't raise the assessment to the property owners by over 3 percent. It is not unusual for the City engineer to on behalf of property owners ask for an additional light to be added to a district. For utility owned street light districts this doesn't require a new contract for the district, just a notification from the City engineer to the utility to add a few lights or remove a few lights. The City engineer might request the addition of a light or two after a district is installed because it is determined another light was needed in the district. Occasionally the City asks for lights to be removed due to situations where streets are closed to allow for expansion of facilities and this situation has occurred in areas of the City such as the hospital corridor where streets were closed to allow the hospitals to expand and lights had to be removed. The City also has the ability to adjust the boundaries of a district or move lights from one district to another as long as it doesn't impact the overall assessment costs to the property owners.

- **QUESTION: Do the street lights in Billings use a lot of energy?**

ANSWER: According to NorthWestern Energy, as a percentage of all the electricity used in the entire City of Billings, the amount of electricity used for both City owned and utility owned street lights amounts to fractions of a percentage. If you total the kilowatt hours annually used by all the street lights in the City it equals about the same amount of electricity as used by one retail type box store. In 2009, NorthWestern Energy's customers in the entire Yellowstone County area used about 1.92 billion kilowatt hours and of that total 0.3 percent of the kilowatt hours were used by all the City and utility owned street lights in the City.

- **QUESTION: If the City wants to upgrade the street lights to LED fixtures what process would need to be followed?**

ANSWER: The City has been monitoring the costs of LED lighting applications to replace the current high pressure sodium lights in the City owned districts and currently there are LED test street lights installed on King Avenue East. So far the research is continuing to show that to convert the City's existing street lights to LED fixtures would result in significant costs which have not shown to be cost effective yet in relation to the energy savings associated with the conversions and twice as many fixtures may need to be installed to meet IES lighting standards. The City will continue to monitor this technology along with other new lighting technologies coming on the market such as induction lighting and lower wattage HPS lamps, etc.

If a group of property owners in a City owned district wanted to explore converting their own specific district they could contact the city engineer to get an estimate of the potential costs for the redesign of the district as LED. This cost would most likely increase the average assessments within the district by over 3 percent as defined in the Montana Code Annotated Section 7-12-4354 which limits minor modifications to street light districts to under 3 percent cost impact to the property owners. So, the property owners would probably need to work with their neighbors to get a petition to support the modification and increased costs for the retrofit according to Montana Code Annotated Section 7-12-4351 for major modification of an existing lighting district.

- **QUESTION: Is the utility going to convert their lights to LED?**

ANSWER: In regards to utility owned lighting district, at present NorthWestern Energy does not have any tariffs or rates for the installation of LED fixtures as they are also closely monitoring this emerging technology and other lighting technology such as induction lighting. Currently the utility's analysis has also shown the costs for retrofits would be very expensive and the payback periods are still fairly long to recover the retrofit costs in energy savings. The LED manufacturers continue to grow but there is turnover in the industry in both companies and products are changing rapidly and it is anticipated there will continue to be changes in the products and manufactures. This change can provide a challenge if a LED product is purchased that within a couple years is no longer available or the manufacture no longer exists and getting replacement parts or fixtures become difficult for that specific product. The Montana PSC has also reviewed this technology and held a public hearing on LED lighting and at present the PSC has not approved any rates for the utility to recover the costs for the installation of LED lights or a LED utility tariff.

- **QUESTION: Who maintains the street lights?**

ANSWER: The City of Billings maintains the street lights in City owned street light districts. Northwestern Energy maintains the street lights in Northwestern Energy owned street light districts and also maintains the street lights owned by the Montana Department of Transportation. With nearly 8,000 street lights in Billings, the City encourages citizen reports to notify the City of outages. The City does not maintain any lighting on private property.

- **QUESTION: Who do citizens call if a street light is not working?**

ANSWER: Street light problems should be reported to the City at 406-657-8231. The City will determine responsibility for maintenance and notify the appropriate personnel since some of the lights may be utility owned lights and others owned by the City. Simple bulb changes are usually completed in 3-5 working days. Electrical problems may require more time. Property owners can also call the utility, NorthWestern Energy at 888-467-2669, to report the light out of order and if it is not a utility owned street light the utility will advise the City engineer's office.

- **QUESTION: How do I get a street light installed to illuminate an intersection?**

ANSWER: The City strongly discourages the installation of single lights. They typically do not fit the pole spacing pattern required when the full street is lighted and therefore have to be removed and replaced. It is also very difficult to get neighborhood concurrence in creating a light maintenance district for a single light.

Appendix A: Lighting Illuminance Design Criteria

November 2007

HIGHWAY LIGHTING DESIGN

13.6(5)

Roadway Class ②	Area Class ②	Average Maintained Horizontal Illuminance (E _h) ① footcandle (lux)				Uniformity Ratio (Ave/Min)
		Pavement Classification②				
		R1	R2 & R3		R4	
Interstate	Commercial	0.7-1.1 (8-12)				3:1 to 4:1
	Intermediate	0.7-0.9 (8-10)				
	Residential	0.6-0.7 (6-8)				
Other Freeways	Commercial	0.9 (10)	1.3 (14)	1.2 (13)	3:1	
	Intermediate	0.7 (8)	1.1 (12)	0.9 (10)		
	Residential	0.6 (6)	0.8 (9)	0.7 (8)		
Other Principal Urban Arterials ③	Commercial	1.1 (12)	1.6 (17)	1.4 (15)	3:1	
	Intermediate	0.8 (9)	1.2 (13)	1.0 (11)		
	Residential	0.6 (6)	0.8 (9)	0.7 (8)		
Urban Minor Arterials	Commercial	0.9 (10)	1.4 (15)	1.0 (11)	4:1	
	Intermediate	0.7 (8)	1.0 (11)	0.9 (10)		
	Residential	0.5 (5)	0.7 (7)	0.7 (7)		
Collectors	Commercial	0.7 (8)	1.1 (12)	0.9 (10)	4:1	
	Intermediate	0.6 (6)	0.8 (9)	0.7 (8)		
	Residential	0.4 (4)	0.5 (5)	0.5 (5)		
Local	Commercial	0.6 (6)	0.8 (9)	0.7 (8)	6:1	
	Intermediate	0.5 (5)	0.7 (7)	0.6 (6)		
	Residential	0.3 (3)	0.4 (4)	0.4 (4)		
Alleys	Commercial	0.4 (4)	0.6 (6)	0.5 (5)	6:1	
	Intermediate	0.3 (3)	0.4 (4)	0.4 (4)		
	Residential	0.2 (2)	0.3 (3)	0.3 (3)		
Sidewalks	Commercial	0.9 (10)	1.3 (14)	1.2 (13)	3:1	
	Intermediate	0.6 (6)	0.8 (9)	0.7 (8)	4:1	
	Residential	0.3 (3)	0.4 (4)	0.4 (4)	6:1	
Pedestrian & Bicycle Ways④	All	1.4 (15)	2.0 (22)	1.8 (19)	3:1	
REST AREAS AND WEIGH STATIONS						
Ramp Gores & Interior Roadways	All	0.4 (4)	0.6 (6)	0.5 (5)	3:1 to 4:1	
Parking & Major Activity Areas	All	0.7 (7)	1.0 (11)	0.8 (9)		
Minor Activity Areas	All	0.4 (4)	0.5 (5)	0.5 (5)	6:1	

Notes:

1. Average illuminance on the traveled way or on the pavement area between curb lines of curbed facilities. See Section 13.1.4 for definition of average maintained illuminance and uniformity ratio.
2. See Section 13.6.1 for definitions of roadway facility, area and pavement classifications.
3. Partial or no-control of access.
4. This assumes a separate facility. Facilities adjacent to a vehicular roadway should use the illuminance levels and uniformity ratios for the roadway. Use R3 requirements for other surface materials not shown.

MDT ILLUMINANCE DESIGN CRITERIA

Appendix B: Billings Street Light Districts

ID	Location / Description	Proj. Annual Energy Costs	Ownership No. of Lights			Unmetered Lights						Metered Lights						
						Wattages						Wattages						
						High Pressure Sodium						High Pressure Sodium						LED
						City	NWE	YVEC	70	100	150	200	250	400	70	100	150	
8	Various Locations	5,539	4	41				40		1	4							
9	Various Locations	5,826	5	48				53										
10	Various Locations	16,673	3	145			11	134				3						
13	Various Locations	44,173	1,196				1,117	14	31		9		18	7				
14	Various Locations	21,773	621				621											
17	Various Locations	13,556		95			85			10								
18	Various Locations	1,275	11								11							
95	First Ave North from	4,790	42								41							
97	Downtown Area	161,682	2	342				12				332						
99	1st South / 27th - 30th	17,620	11	46				4										
100	1st North / 16th - 23rd	29,042		81														
107	Carlson/Evergreen Subd's	19,700		64				64										
109	Central Heights Subd	48,635		158				158										
113	Centerville Subdivision	1,932	42				29		13									
114	Burg Subdivision	10,468		34				34										
115	Glock Subdivision	2,463		8				8										
116	Curtis & Van Bramer	6,464		21				21										
117	Yegan Addition Subd	35,697		192			192											
118	South 27th/State - 9th	2,558		19				19										
119	Bridger Square Subd	1,677		16				16										
121	College Subdivision	27,703		90				90										
122	North 25th/11th-12th	2,106		8				8										
123	Westridge Subdivision	3,694		12				12										
124	Clark & Yellowstone	10,773		35				35										
125	Avenue E & F	4,309		14				14										
126	700 Block Ave C	2,155		7				7										
127	Country Club Heights	7,897		30				30										
128	Clark Ave /	5,528		21				21										
129	Suncrest and	3,694		12				12										
130	So. 36th / 5th - State	1,594		8				8										
131	2900 Block of Howard,	9,542		31				31										
133	Central Heights 5th	2,591		13				13										
134	North Park	6,362		30				30										
135	Lillis Subdivision	5,791		22				22										
136	600 Block Ave D	5,124		17				17										
137	So. 27th / 2nd - State	4,107	5	16				16				5						
138	Alderson / 8th-11th W.	8,311		27				27										
139	1900 & 2000 Block	2,770		9				9										
143	Sweet Acres Subdivision	6,456		21				21										
*44	Maplewood Subdivision	307		1				1										
	Burlington /	5,265		20				20										
	Saint Johns /	4,002		13				13										
	EMC/Rimrock & Poly	5,161		15						15								
149	1st Avenue South	15,176	66	13						13	9	49				8		
150	Lee Heights Subdivision	8,423		32				32										
151	Southwest Billings Subd	7,388		24				24										
152	Vaughn to Jane	48,186		160				160										
153	Forest Park Subdivision	6,054		23				23										
154	17th to Dehila	13,688		52				52										
155	Saint Johns /	5,541		18				18										
157	Jackson Heights Subd	10,266		39				39										
158	Partington Park Subd	8,927		29				29										
159	Broadwater	12,041	2	27						8	2	18						
160	Streeter Brothers Sub	8,003		26				26										
161	Yellowstone & Wyoming	11,845		45				45										
162	Yelmstn & Wyoang Alley	664		7				7										
163	Poly / Ash - 17th West	8,098	77								77							
164	Mountainview Subd	4,212		16				16										
165	900 Blk Ave D, E, F	9,850		32				32										
167	Spring Valley Sub #1	2,632		10				10										
171	Forest Park Subdivision	6,317		24				24										
172	Windsor Imperial Sub	5,979		30				30										
173	Kimberly Heights #1	13,425	1	50				50					1					
174	Kimberly Heights #2	11,058		42				42										
175	Acheson Subdivision	3,685		14				14										
176	Norman Park Subd	474		5				5										
178	Gleewood Subdivision	2,896		11				11										
179	Silverwood Subdivision	5,791		22				22										
180	Spring Valley Subd #2	3,948		15				15										
181	Glock Subdivison	18,777		61				61										
182	Hilltop Subdivision	6,581		25				25										
183	Golden View Subd	13,161		50				50										
184	Kimberly Heights #3	4,212		16				16										
185	Pryor View Subdivision	1,579		6				6										
186	Broadwater Ave from	6,573	58					58										
187	Pineview Subdivision	2,632		10				10										
188	Meadowood Subdivision	3,159		12				12										
189	Kimberley Heights #4	2,632		10				10										
190	Sun Village and	13,688		52				52										
191	Kimberley Heights #5	4,702		18				18										
192	Spring Valley Subd #3	3,422		13				13										
193	Toole Circle	8,423		32				32										
	Broadwater /	2,720	28					28										
	15th West /	2,267	20					20										
	100 Block of	730	15					15										

ID	Location / Description	Proj. Annual Energy Costs	Ownership No. of Lights			Unmetered Lights							Metered Lights						
						Wattages							Wattages						
						High Pressure Sodium							High Pressure Sodium						LED
						City	NWE	YVEC	70	100	150	200	250	400	70	100	150	250	
	800 and 900	730	15					15											
3	Luther Circle	1,316		5				5											
200	100 Block of	779	16					16											
201	Stewart Court	5,533		21				21											
202	24th West /	6,363	49							9	40								
203	North Park	195	4					4											
204	6th Ave. North /	3,965	35												35				
205	Vigilante Trail	379		4				4											
206	Dixon Street	3,685		14				14											
207	Castle Rock Subdivision	4,212		16				16											
208	File # 1 & # 2	2,488	68					46					20		2				
209	Kings Green Subdvision	6,054		23				23											
210	St. Johns /	876	18					18											
211	Cook Avenue /	487	10					10											
212	Cook Avenue	487	10					10											
213	North 14th /	292	6					6											
214	Normal and North	5,247		13						13									
216	Park Side Subdivision	1,579		6				6											
217	Grand /	4,039	22									22							
220	6 North /	2,847	23													23			
221	Higwood Circle	95		1				1											
222	North 22nd /	768	11						11										
223	Cook /	1,168	24					24											
224	Monlana /	19,933		55								55							
225	4th North /	4,237	36								28	1			7				
226	Rimrock /	3,121	17									17							
227	King /	7,661	37							3	34								
228	Parkland West Subd	8,927		29				29											
229	Woodland Hills Subd	4,617		15				15											
230	Aspen Grove Subd	10,774		35				35											
231	Oaks Subdivision	8,484		21				21											
232	Centennial Subdivision	28,011		91				91											
233	Hogan Homestead Subd	6,496	117			40			62			15							
234	24th Street West /	5,000	28								2	26							
235	24th Street West /	5,340	31								5	26							
236	Monad / 24th West	1,813	16							16									
237	Tepee Trail &	4,475		17				17											
238	Gorham Park Subd	163		2		2													
239	Beverly Hills	1,053		4			4												
240	Broadwater /	4,080	36							36									
241	4th North /	6,862		17						17									
242	Tierra West Subdivision	923		3				3											
1	Clevenger Subdivision	1,231		4				4											
	North Pointe Sq. Subd	948		2								2							
3	Parkland West Subd	3,694		12				12											
247	Grand Avenue	12,731	3	26							2	27							
248	North 27th /	27,012		57								57							
249	Descro Subdivision	30,474		99				99											
250	Division Street	2,066	17								15	2							
250	Division Street	200	3												3				
251	Sahara Sands Subd	43,696		138				110		28									
252	Summerhill Subdivision	6,155		20				20											
253	Governors Boulevard	21,429		61					61										
254	North 23rd	1,537	22						22										
255	North 24th Street	1,579	17											17					
257	King Ave West	8,946	56								19	37							
258	Central Acres	28,973	20	88				88		18	2								
259	NW Central	13,959	158						94		62	2							
259	NW Central	185	4												2	2			
261	Straw Subdivision	5,541		18				18											
262	1200 Calico Avenue	34,904		110				95		24									
263	State Ave	9,887	86								84	2							
264	Rimrock	1,676	24						24										
265	Two Moon Subdivision	3,907		12		12													
266	Rim Point Subdivision	582	6												6				
269	Polpelka Heights View	793	7								7								
270	Rimrock Phase II	4,469	59						51		8								
271	Gabel Subdivision	11,074		24							24								
272	Forest Park	31,343		79				79											
273	South Heights Drive	2,249		9		9													
274	Wal-Mart Subdivision	680	7								7								
276	Grand Avenue	4,848	31								12	19							
277	Forest Park Subd	9,214		20				20											
278	King Ave West	2,380	21								21								
279	Cambridge Subdivision	683		3				3											
280	Gabel Road and	7,365	65								65								
281	Grand Avenue	3,676	21								1	20							
283	King Avenue East	3,854	41	2							43								
285	Moore Lane	3,761		9					9										
286	Chrysalis Acres	2,650		9		9													
287	Midland Road	1,280	12													12			
288	Wentworth	5,619	4	40		2	42												
289	Gabel Road & Pierce Parkway	3,589	21								4	17							
290	S 32nd St West	1,361	10													10			
92	Hawthorne Park	6,771		22				22											
3	Dunbar Subdvision	2,636		10				10											
4	Vista Heights	5,260		20				20											

MD	Location / Description	Proj. Annual Energy Costs	Ownership No. of Lights City NWE YVEC			Unmetered Lights						Metered Lights					
						Wattages						Wattages					
						High Pressure Sodium						High Pressure Sodium					LED
						70	100	150	200	250	400	70	100	150	250	400	250
	Bander Subdivision	1,238		4				4									
	Primrose Subdivision	14,544		54				53									
297	Heyn Subdivision	2,364		9				9		1							
298	Heyn Subdivision	2,104		8				8									
299	Vintage Estates Subd	4,518			12								12				
300	Bellville Subdivision	4,493		12				12									
301	Josephine Crossing Sub	19,482		50				49		1							
302	Grand Ave. (8th - 12th)	2,834	23													17	6
305	King Avenue West	10,088	68													68	
306	King Avenue East to Orchard	3,806	31														31
320	Streeter Brothers Subdivision	565	16			16											
TOTALS		\$ 1,647,048	3,691	4,278	12	2,145	3,408	308	188	659	964	38	20	25	179	14	31

Appendix C: Montana Code Annotated

http://data.opi.state.mt.us/bills/mca_toc/7_12_43.htm

TITLE 7. LOCAL GOVERNMENT, CHAPTER 12. IMPROVEMENT DISTRICTS

Part 43. Special Provisions for Special Improvement Lighting Districts

7-12-4301. Special improvement districts for lighting streets authorized.

- (1) The council of any city or town is authorized to:
 - (a) create special improvement districts embracing any street or streets or public highway therein or portions thereof and property adjacent thereto or property which may be declared by said council to be benefited by the improvement to be made for the purpose of lighting such street or streets or public highway;
 - (b) require that all or any portion of the cost of installing and maintaining such lighting system be paid by the owners of the property embraced within the boundaries of such districts; and
 - (c) assess and collect such portion of such cost by special assessment against said property.
- (2) The governing body may create special lighting districts on any street or streets or public highway for the purpose of lighting them and assess the costs for installation and maintenance to property abutting thereto and collect the costs by special assessment against the property.

7-12-4302. Resolution of intention to create special improvement lighting district.

- (1) Before creating any special improvement lighting district in any such city or town for the purpose of lighting any street or streets or public highway or section thereof in accordance with the provisions of this part, the city council shall pass a resolution of intention to do so.
- (2) The resolution shall designate the number of such district, describe the boundaries thereof, and state therein the general character of the improvement or improvements to be made and an approximate estimate of the cost thereof, an approximate estimate of the cost of maintaining such lights and supplying electrical current therefore for the first year, and the proportion of such cost to be assessed against the property embraced within the district.

7-12-4303. Notice of resolution of intent to create lighting district.

- (1) Upon having passed the resolution required by 7-12-4302, the council shall give notice of the passage of the resolution of intention. The notice of the passage of the resolution must be published as provided in 7-1-4127. A copy of the notice must be mailed to every person, firm, or corporation having property within the proposed district, as listed on the current property tax record, at the property owner's address as the address is listed on the current property tax record, on the same day that the notice is first published or posted.
- (2) The notice must describe the general character of the improvement proposed to be made, state the estimated cost of the improvement and the estimated cost of maintaining the lights and supplying the electrical current for the improvement and lights within the district for the first year, and designate the time when and the place where the council will hear and pass upon all protests that may be made against the making of the improvement or the creation of the district. The notice must refer to the resolution on file in the office of the city clerk for a description of the boundaries.

7-12-4304. Protest against creation of lighting district. At any time within 15 days after the date of the first publication of the notice of passage of the resolution of intention, an owner of property liable to be assessed for the work may make written protest against the proposed work or against the extent or creation of the district to be assessed, or both. The notice must be in writing and be delivered to the clerk of the city council, who shall endorse on the notice the date of receipt.

7-12-4305. Consideration of protest.

- (1) At the next regular meeting of the city council after the expiration of the time within which said protests may be made, the city council shall proceed to hear and pass upon all protests so made, and its decision shall be final and conclusive. When the protest is against the proposed work and the cost thereof is to be assessed upon property embraced within the boundaries of the district and if the city council finds that such protest is made by the owners of a majority of the property embraced within the district to be assessed for the proposed work, no further proceedings shall be taken for a period of 6 months from the date when said protest was received by the city clerk of said city council.
- (2) In determining the sufficiency of protest, each protest shall be weighted in proportion to the amount of the assessment to be levied against the lot or parcel with respect to which it is made.
- (3) In determining whether or not sufficient protest has been filed in a proposed district to prevent further

proceedings therein, property owned by a county, city, or town shall be considered the same as other property in the district.

(4) The city council may adjourn said hearing from time to time.

7-12-4306. Resolution to create lighting district. When no protests have been delivered to the clerk of the city council within 15 days after the date of the first publication of the notice of the passage of the resolution of intention or when a protest shall have been found by the city council to be insufficient or shall have been overruled or when a protest against the extent of the proposed district shall have been heard and denied, immediately thereupon, the city council shall be deemed to have acquired jurisdiction to order the proposed improvements. Before ordering any of said proposed improvements, the city council shall pass a resolution creating the special improvement lighting district in accordance with the resolution of intention theretofore introduced and passed by the city council.

7-12-4307. Objections to irregular proceedings or manner of making improvements.

- (1) At any time within 60 days from the date of the award of a contract by a city or town council under the provisions of this part or at any time within 60 days from the date the council requires or instructs the street commissioner or any other official of the city or town to cause the posts, wires, pipes, conduits, lamps, or other suitable and necessary appliances for the purpose of lighting the streets of the city or town to be procured and erected, an owner or other person having an interest in a lot or land liable to assessment who claims that any of the previous acts or proceedings relating to the improvements are irregular, defective, erroneous, or faulty or that the person's property will be damaged by the making of any improvements in the manner contemplated may file with the city clerk a written notice specifying in what respect the acts or proceedings are irregular, defective, erroneous, or faulty or in what manner and to what extent the person's property will be damaged by the making of the improvements. The city clerk shall deliver the notice to the council.
- (2) All objections to an act or proceeding or in relation to the making of the improvements not made in writing and in the manner and at the time provided in subsection (1) and all claims for damage are waived by the property owners if the notice of the passage of the resolution of intention has been actually published and the notices of improvements have been posted as provided in this part.

7-12-4308. Operation of district.

- (1) The city or town council may:
 - (a) cause the posts, wires, pipes, conduits, lamps, or other suitable and necessary appliances for the purpose of lighting said streets to be procured and erected by contract, by the street commissioner, or by any other official of the city or town, in such way and manner as the council shall provide; and
 - (b) after such lighting system has been installed in such way and manner as the council shall elect, cause, by contract, the lights to be maintained thereon and electrical current furnished therefore.
- (2) The posts in any such district shall be of uniform size and character and shall be distributed uniformly upon the street or streets or public highway or section thereof to be lighted in any such district.
- (3) The lights in each district shall be maintained by contract for such period of time and in such way or manner as the city or town council shall elect. The council shall not let a contract for a period to exceed 3 years.

7-12-4309. Record of expenses to be kept by city engineer. The city engineer shall keep an account of all costs and expenses incurred in the engineer's office in connection with each special improvement district and certify the costs and expenses to the city clerk.

7-12-4310. Role of city clerk. It shall be the duty of the city clerk to prepare all necessary schedules and resolutions levying taxes and assessments in such special improvement districts.

7-12-4311. Termination of special improvement lighting district. If at any time after the creation of a special improvement lighting district a petition is presented to the city or town council, signed by the owners or agents of more than three-fourths of the total amount of property within the district, asking that the maintenance and operation of the special lighting system and the furnishing of electrical current in the district be discontinued, or if a majority of the city or town council votes to discontinue a special improvement lighting district, the city or town council shall, by resolution, provide for discontinuing the maintenance and operation of the lighting system. If the council has, prior to the presentation of a petition or by a majority vote of the council to discontinue the district, entered into any contract for the maintenance and operation of the lighting system, the maintenance and operation may not be discontinued until after the expiration of the contract.

7-12-4312 through 7-12-4320 reserved.

7-12-4321. Apportionment of costs. The portion of the entire cost of erecting and maintaining the posts, wires, pipes, conduits, lamps, and other suitable or necessary appliances for the purpose of lighting said streets or public highways and of the annual cost of supplying electrical current for and maintaining the lights thereon in such districts, all or any portion as shall be determined by the city or town council, shall be borne by the property embraced within said district.

7-12-4322. Choice in manner of making assessments. The city or town council, for the purpose of making the assessment, shall adopt one of the methods specified in 7-12-4323 or 7-12-4324.

7-12-4323. Assessment of costs -- area or taxable valuation option -- equal assessment option.

- (1) The city council may assess the entire cost of the lighting improvement against the entire district, each lot or parcel of land within the district to be assessed for that part of the whole cost that its:
 - (a) area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places; or
 - (b) taxable valuation, including improvements, bears to the taxable valuation of the entire district.
- (2) The city council may assess the cost equally against each of the lots or parcels located within the district.
- (3) The council, in its discretion, may pay the whole or any part of the cost of any street, avenue, or alley intersection out of any funds available for that purpose or include the whole or any part of the costs within the amount of the assessment to be paid by the property in the district.
- (4) In order to apportion the cost of any of the improvements provided in this part between the corner lot and the inside lots of a block, the council may, in the resolution creating a district, provide that whenever any of the improvements provided in this part are located along a side street or bordering or abutting upon the side of a corner lot of a block, the amount of the assessment against the property in the district to defray the cost of the improvements must be assessed so that each square foot of the land embraced within the corner lot bears double the amount of the cost of the improvement that a square foot of an inside lot bears.

7-12-4324. Assessment of costs -- frontage option.

- (1) The city council shall assess the cost of the improvements against the entire district, each lot or parcel of land within the district bordering or abutting upon the streets whereon or wherein the improvement has been made to bear costs in proportion to the lineal feet abutting or bordering the streets.
- (2) The council, in its discretion, may pay the whole or any part of the cost of any street, avenue, or alley intersection out of any funds in its hands available for that purpose or include the whole or any part of such costs within the amount of the assessment to be paid by the property in the district.

7-12-4325. Incidental expenses considered as costs of improvements. The cost and expense connected with and incidental to the formation of the district, including the cost of preparation of plans, specifications, maps, and plats; engineering, superintendence, and inspection, including the compensation of the city engineer for work done; the cost of printing and advertising as provided in this part; and the preparation of assessment rolls must be considered a part of the cost and expenses of making the improvements within the special improvement district.

7-12-4326. Treatment of federal lands within lighting district. Whenever any lot, piece, or parcel of land belonging to the United States (or mandatory of the government) shall be included within the boundaries of the proposed special improvement lighting district declared by the city or town council in its resolution of intention to be the district to be assessed to pay the costs and expenses thereof, said council shall, in the resolution of intention, declare that said lots, pieces, or parcels of land shall be omitted from the assessment thereafter to be made to cover the costs and expenses of said work or improvement. The cost of said work or improvement which would have been assessed against said lots shall be paid by the city from its general fund.

7-12-4327. Assessment of costs of lighting district to certain lands lying outside of municipality. The city or town council may make assessments in the manner provided in 7-12-4301 on property abutting the street or highway and lying outside the boundaries of the city or town, as long as that portion of the street or public highway to be lighted is adjacent to the boundary line of the city or town, lies partially within the city or town, or extends from one point within the city or town to another point within the city or town.

7-12-4328. Resolution to provide for assessment of costs of installation.

- (1) It shall be the duty of the city or town council to ascertain the cost of installing such lighting system and, on or before the first Monday in October, to pass and finally adopt a resolution levying and assessing all of the

property embraced within said district with all or any portion of the entire cost of installing the same; each lot or parcel of land in said district to be assessed in accordance with the method adopted by the city council as provided in 7-12-4321 through 7-12-4324.

- (2) Any such resolution shall contain a list in which shall be described each lot or parcel of land, either the total number of square feet of property contained therein or the total number of linear feet abutting the improvements as may be required to determine the total assessment in the district, and the amount levied against each lot or parcel of land set opposite.
- (3) Such resolution, signed by the mayor and city clerk, shall be kept on file in the office of the city clerk.

7-12-4329. Notice of resolution for assessment of installation costs -- hearing on resolution.

- (1) A notice, signed by the city clerk, stating that the resolution levying the assessment to defray the portion of the cost of installing and maintaining the lights and supplying electrical current for the first year as determined by the city or town council is on file in the city clerk's office subject to inspection, must be published as provided in 7-1-4127.
- (2) The notice must state the time and place at which objections to the final adoption of the resolution will be heard by the council. The time for the hearing may not be less than 5 days after the final publication of the notice.

7-12-4330. Hearing on resolution for assessment of installation costs.

- (1) At the time so fixed, the council shall meet and hear all such objections and for the purpose may adjourn from day to day and may modify such resolution in whole or in part.
- (2) A copy of such resolution as finally adopted, certified by the city clerk, must be delivered within 2 days after its passage to the city treasurer.

7-12-4331. Lighting district fund established. All money derived from the collection of the assessments provided for in 7-12-4328 through 7-12-4330 shall constitute a fund to be known as the special improvement lighting district No. fund.

7-12-4332. Resolution to provide for assessment of maintenance costs. It shall be the duty of the city or town council to estimate, as nearly as practicable, the cost of maintaining such lights and furnishing electrical current therefore each year and the portion thereof to be assessed against the property embraced within the district and, before the first Monday in October, to pass and finally adopt a resolution levying and assessing said property within said district with an amount equal to the proportion of the cost of such maintenance and electrical current so determined to be especially assessed against said property.

7-12-4333. Procedure for resolution for assessment of maintenance costs. Said resolution levying and assessing said portion of the cost of maintenance and for furnishing electrical current therefore shall be prepared and certified to in the same manner as the resolution provided for in 7-12-4328 through 7-12-4330, and the same notice and hearing shall be given thereon. This resolution shall be adopted and certified and the assessment collected in the same manner, as nearly as may be, in the case of the resolution provided for in 7-12-4328 through 7-12-4331.

7-12-4334. Lighting district maintenance fund. All money derived from the collection of the assessment provided for in the resolution required by 7-12-4333 shall be paid into a fund known as the special improvement lighting district No. maintenance fund, the number of which shall correspond with the number of the lighting district, for the maintenance of and the supplying of current for which the tax is levied. Such fund shall be used to defray the expense of maintaining and furnishing electrical current for the lights in said district and for no other purpose.

7-12-4335. Change of boundaries of maintenance district. The city or town council shall have the power, not more than once in a year, to change by resolution the boundaries and number of any maintenance district, but such change of boundaries shall not affect indebtedness existing at the time of such change.

7-12-4336. Effect of mistake as to property ownership. When, under any of the provisions of this part, special taxes and assessments are assessed against any lot or parcel of land as the property of a particular person, no misnomer of the owner or supposed owner or other mistake relating to the ownership thereof shall affect such assessment or render it void or voidable.

7-12-4337. Incorporation of procedures to correct errors and omissions. All remedies, provisions, and

means provided by existing laws or by the ordinances of any city availing itself of the provisions of this part which are for the correction of errors or omissions in the adoption of any resolution or proceeding or in the levy of any assessment or for the collection thereof, for the enforcement of any such levy by the sale of the property against which the assessment is made, or for the redemption of the property from such sale or which are otherwise applicable to the administration of this part are available in the administration of this part as if such remedies, provisions, and means were contained in this part.

7-12-4338. Assessments to have effect of lien. Any special assessment levied and made for any purpose aforesaid, together with all costs and penalties, shall constitute a lien upon and against the property upon which assessment is made and levied from and after the date of the final passage and adoption of the resolution levying the same. The lien can only be extinguished by payment of such assessment, with all penalties, costs, and interest, or otherwise as provided by law.

7-12-4339 through 7-12-4340 reserved.

7-12-4341. Financing of lighting district improvements. All costs and expenses incurred in the construction of the improvements specified in this part shall be paid for by special improvement lighting district bonds or warrants, in such form as may be prescribed by ordinance, drawn against a fund to be known as the special improvement lighting district No. fund.

7-12-4342. Details relating to lighting district bonds and warrants.

- (1) Warrants or bonds issued pursuant to 7-12-4341 must be in the denomination of \$100 or fractions or multiples of \$100 and may be issued in installments.
- (2) The warrants or bonds must be redeemed by the treasurer when there is money available for redemption in the fund against which the warrants or bonds are issued and must bear interest from the date of registration of the warrants or bonds until called for redemption or paid in full, interest to be payable annually on January 1 of each year as expressed by the interest coupon attached to the warrant or bond, which may bear the engraved facsimile signature of the mayor and city clerk.
- (3) The warrants or bonds may extend over a period not to exceed 20 years.
- (4) The requirements of 7-12-4341 and this section apply to all special improvement lighting districts, including those in the process of formation or to be formed on or after July 1, 1997.

7-12-4343 through 7-12-4344 reserved.

7-12-4345. Water user entities exempt from special assessments. Rights-of-way, ditches, flumes, pipelines, dams, water rights, reservoirs, equipment, machinery, motor vehicles, and other personal property owned by a nonprofit water company, water users' association, irrigation company, canal company, ditch company, reservoir company, or similar nonprofit water user entity are exempt from every special assessment imposed by any improvement or maintenance district created under Title 7, chapter 12.

7-12-4346 through 7-12-4350 reserved

7-12-4351. Major modification of existing lighting district.

- (1) The council of any city or town is authorized to:
 - (a) modify an existing special improvement lighting district by changing the number and spacing of lights, replacing overhead transmission lines with underground lines, increasing or decreasing the level of illumination, or making other major modifications required by the public interest and convenience;
 - (b) require that all or any part of the cost of the modification be paid by the owners of the property within the district; and
 - (c) assess and collect all or any part of the cost of the modification by special assessment against the property within the district.
- (2) Before modifying an existing lighting district, the city council shall adopt a resolution of intention to do so, either by motion of the council or upon presentation of a petition signed by the owners or agents of at least 10% of the property within the district.
- (3) The provisions in 7-12-4302 through 7-12-4305 for the content of the resolution, public notice, protest, and consideration of protest that apply to the creation of a special improvement lighting district also apply to the modification of an existing special improvement lighting district authorized by this section.

7-12-4352. Jurisdiction to modify lighting district. If no protests have been delivered to the clerk of the city or

town council within 15 days of the date of the first publication of the notice of the passage of the resolution of intention required by 7-12-4351 or if a protest has been found to be insufficient or has been overruled, the city or town council is considered to have acquired jurisdiction to order the proposed modification

7-12-4353. Objections to irregular proceedings or manner of making modification.

- (1) At any time within 60 days from the date of the award of a contract by a city or town council to implement the provisions of 7-12-4352 or at any time within 60 days from the date the council instructs an official of the city or town to cause the necessary equipment or appliances to be procured and installed, an owner of property liable to assessment who claims that any of the previous acts or proceedings relating to the modification are irregular, defective, erroneous, or faulty or that the person's property will be damaged by making the modification in the manner contemplated may file with the city or town clerk a notice specifying in what respect these acts or proceedings are irregular, defective, erroneous, or faulty or in what manner and to what extent the person's property will be damaged by the modification.
- (2) Objections to an act or proceeding or in relation to the making of the modification not made in writing or not made in the manner provided for in subsection (1) and all claims for damage are waived by the property owners if the notice of the passage of the resolution has been published and the notices of the modification have been posted as provided in 7-12-4303.

7-12-4354. Minor modifications exempt. Nothing in 7-12-4351 through 7-12-4354 prevents the city or town council from eliminating unnecessary lights, relocating individual lights, upgrading lights and lighting-related facilities in the interest of energy conservation, or making other minor modifications in a special improvement lighting district without following the procedures described in 7-12-4351 through 7-12-4353. For the purposes of this section, "minor modifications" includes but is not limited to adding properties or lights if the additions:

- (1) reduce assessments within the maintenance district; or
- (2) increase the average assessments within the maintenance district by 3% or less in a fiscal year.

Rural Improvement Districts that are under the jurisdiction of county commissioners are under the jurisdiction of the Montana Code Annotated, Title 7, Chapter 12, Part 22. Special Provisions for Districts for Lighting.

Appendix D: Montana PSC Street Lighting Tariffs

ELECTRIC TARIFF

**NorthWestern
Energy**

Canceling 11th Revised Sheet No. 40.1
10th Revised Sheet No. 40.1

Schedule No. ELDS-1

ELECTRIC LIGHTING DELIVERY SERVICE

APPLICABILITY: Applicable for lighting purposes including, but not limited to, streets, highways, alleys, parks, public grounds, or other publicly dedicated outdoor ways and places, post-top lighting, and yard lighting, where lights are operated from dusk to dawn throughout the year; and all other miscellaneous outdoor lighting installations throughout the Utility's entire electric service area for Customers receiving electric supply under Default Supply Service or through a Contract with a Competitive Electric Supplier (Electric Supplier).

TYPE OR SERVICE: Sixty hertz, alternating current delivered at such voltage or current as may be available at the Utility's option.

RATES: Monthly Bill:

Electric Supply Charge: In Accordance with the Default Supply Service Tariff or with a Contract Between the Customer and an Electric Supplier.

PLUS:

Transmission Charges: In Accordance with the Default Supply Service Tariff if receiving supply under Default Supply Service; or In Accordance with Utility's FERC Approved Transmission Tariff if receiving supply from an Electric Supplier.

PLUS:

Delivery Service Charge (DSC): Customer specific DSC resulting from the sum of the following:

Energy Charge (Monthly \$/kWh):
All Kwh @ \$ 0.027747 (I)

PLUS:

Ownership Charge (Monthly \$/Unit):

<u>Cost Range</u>		<u>Unit Rate</u>		<u>Cost Range</u>		<u>Unit Rate</u>	
\$ 200 - \$ 399		\$ 2.75	(I)	\$ 1,600 - \$ 1,799		\$ 22.01	(I)
400 - 599		5.89	(I)	1,800 - 1,999		24.80	(I)
600 - 799		9.15	(I)	2,000 - 2,199		26.56	(I)
800 - 999		10.99	(I)	2,200 - 2,399		29.10	(I)
1,000 - 1,199		13.21	(I)	2,400 - 2,599		31.61	(I)
1,200 - 1,399		16.03	(I)	2,600 - 2,799		34.14	(I)
1,400 - 1,599		19.55	(I)	2,800 - 2,999		36.69	(I)

(continued)

Rates as of February 2, 2010, pending PSC signature and approval.

Schedule No. ELDS-1

ELECTRIC LIGHTING DELIVERY SERVICERATES:PLUS:

(\$/Unit/month)

Operations Charge: \$ 0.57 (I)

Maintenance Charge: \$ 0.55 (I)

Billing Charge: \$ 0.23

PLUS:BPA Residential Exchange Credit: (Residential Load Only – See Definition)

Energy (Monthly \$/kWh):

All kWh @ \$ (0.002759)

PLUS:Other Applicable Charges: All charges contained on other applicable rate schedules approved by the Public Service Commission of Montana (Commission).APPLICATION OF RATES:

Monthly Bill Components: Each month, Customers' bills shall include an Electric Supply Charge; a Transmission & Ancillary Services Charge(s); all relevant charges contained on other applicable rate schedules including, but not limited to, competitive transition charges (CTC) and universal systems benefits programs (USBC); and a Delivery Services Charge (DSC) plus the following applicable charges. Customers may be billed either entirely by the Utility, or in part by the Electric Supplier, in accordance with the Contract between the Utility and Electric Supplier, or the Electric Supplier and its Customer.

Utility-Owned Lighting Unit(s): Monthly Ownership Charge; plus Operations and Maintenance Charges.

Customer-Owned Lighting Unit(s): Monthly Billing Charge; plus an Operations Charge, if Customer has entered into an Operations Contract with the Utility; plus a Maintenance Charge, if Customer has entered into a Maintenance Contract with the Utility.

1. A. Ownership Charge: For Utility-Owned lighting units, the monthly charge shall be the product of the number of units times the applicable monthly Ownership Charge set forth above under RATES.

(continued)

Rates as of February 2, 2010, pending PSC signature and approval.

Schedule No. ELDS-1

ELECTRIC LIGHTING DELIVERY SERVICE

- B. Ownership Charge Assignment: Utility-Owned lighting units shall be assigned the applicable Ownership Charge using the Ownership Cost Ranges set forth above under RATES. Such assignment shall be based on the average installed cost of the lighting unit(s) per project.
2. Operations Charge: For Utility-Owned lighting units, or where a Customer has entered into an Operations Contract with the Utility, the monthly charge shall be the product of the number of units times the monthly Operations Charge set forth above under RATES.
3. Maintenance Charge: For Utility-Owned lighting units, or where a Customer has entered into a Maintenance Contract with the Utility, the monthly charge shall be the product of the number of units times the monthly Maintenance Charge set forth above under RATES.
4. Billing Charge: For Customer-Owned lighting units, the monthly charge shall be the product of the number of units times the monthly Billing Charge set forth above under RATES.

LIGHTING UNIT DEFINITION: "Lighting Unit" or "Unit", as used herein, shall mean a single structure and the luminaries(s) connected to that structure.

SPECIAL TERMS AND CONDITIONS:1. Definitions:

- A. BPA Residential Exchange Credit: Credit from the Bonneville Power Administration in settlement of the Residential Exchange rights of regional residential and small farm customers to benefit from the Federal Columbia River Power System per the Northwest Power Act. Applicable only to electric use that qualifies as residential load. Residential load is defined as all usual electric service used in connection with permanent or seasonal living quarters of individuals or families, domestic needs of occupants of multifamily complexes, or farm activities including incidental primary processing.
- B. Electric Delivery Service: Service provided to Customer to deliver electricity through the local electric distribution wires to the Customer's point of service.
- C. Electric Energy: The amount of electricity used measured in kilowatt hours (kWh).
- D. Electric Supply Service: Service provided to Customer receiving electric supply either from the Utility as Default Supplier or a Competitive Electric Supplier.
(See also EDSS-1, CESGTC-1 and ECCGP-1.)

(continued)

Date Approved June 25, 2002
Docket No. D97.7.90 (Order 5986w)
Agenda No. 02-06-25

Effective for service rendered on or after
July 1, 2002

PUBLIC SERVICE COMMISSION

Rhonda Jimenez
Secretary

Schedule No. ELDS-1

ELECTRIC LIGHTING DELIVERY SERVICE**2. Annual Operating Schedule:**

- A. For lights that operate from dusk-to-dawn, 350 shall be used as the number of operating hours per month.
- B. For lights that operate 24 hours per day, 730.5 shall be used as the number of operating hours per month.
- C. For lights that operate throughout other periods of duration, the number of operating hours per month shall be determined by multiplying the operating hours per day times 30.44 days per month. Non-metered flashers and other lamps that operate intermittently shall be adjusted for burning hours.

3. Description of Utility-Owned Facilities:

- A. The Utility shall install, own, operate and maintain its current standard facilities which include a pole, luminaries, mast arm, and on-off control. A maximum free line extension allowance of \$0.04/kWh times the Utility's estimate of the annual kWh consumption shall apply for extension of primary distribution facilities that are not a part of the street lighting system.
- B. Where the facilities required are in excess of the Utility's standard facilities as provided for under SPECIAL TERMS AND CONDITION No. 16 (Lighting Line Extension Allowance), Customer shall pay the cost of such excess facilities as an advance in aid of construction in accordance with SPECIAL TERMS AND CONDITION No. 15 (Income Tax on Contributions).

4. Operations*:

- A. Where the Utility provides operations* services on Customer-Owned lights, such services shall be billed as set forth above under RATES, provided Customer has entered into an Operations Contract with the Utility. Reasonable care and diligence shall be exercised in relamping, replacing refractors, cleaning, testing, and performing such other items of an operations* nature so as to provide continuity of illumination. It shall be the responsibility of the Customer to notify the Utility of Lamp outages.
- B. Where Utility experiences excessive operations* costs as a result of vandalism; malicious acts; non-standard posts, poles or luminaries; or other causes of an unusual nature, the Utility may require Customer to pay the actual costs of repairing or replacing the damaged part(s) or unit(s). Such charges are in addition to the monthly charges set forth above under RATES.
- C. The Utility shall be responsible for supplying only lamps and refractors that are standard to those used on Utility-Owned light fixtures. For Customer-Owned lights, lamps and refractors of a special nature shall be supplied by the Customer at Customer's expense.

(continued)

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Rhonda Jimmons
Secretary

Schedule No. ELDS-1

ELECTRIC LIGHTING DELIVERY SERVICE

- D. * As used in this context, "operations" is intended to mean exclusively the labor and materials associated with relamping, cleaning luminaries, replacing broken or damaged refractors, and minor testing of circuitry. It does not include maintenance of the poles, conductors, luminaries, control(s), or protective system. Operations service does not include underground locating on Customer-Owned facilities.
5. Maintenance:
- A. Where the Utility provides maintenance* services on Customer-Owned lights, such services shall be billed as set forth above under RATES, provided Customer has entered into a Maintenance Contract with the Utility. However, Utility may refuse to maintain Customer-Owned lights which are of a unique or non-standard nature, or otherwise do not meet Utility specifications. At the Utility's option, maintenance services may also be provided on Customer-Owned lights, under separate contract, where Customer will be billed for time and materials plus appropriate overhead costs.
- B. Where Customer's lighting units or systems are such that repair or replacement parts and materials are of a unique or non-standard nature, such parts and materials shall be supplied by the Customer at Customer's expense. Under such circumstances, the Utility cannot guarantee continuity of service if Customer fails to adequately supply the necessary parts.
- C. * As used in this context, "maintenance" is intended to mean exclusively, the labor and materials associated with maintaining the poles, conductors, luminaries, control(s), and protective system.
6. Special Facilities: The Utility shall install, at its expense, only those facilities which are deemed necessary to render service in accordance with this Rate Schedule. When Customer requests facilities which are in addition to, or in substitution of, the standard facilities which the Utility would normally install, the entire installation shall be installed, owned, operated and maintained by Customer.
7. Temporary Discontinuance of Service: (Fixture remains in place.) At the request of Customer, Utility will temporarily discontinue service to individual lighting units, provided Customer continues to pay the applicable charges set forth above under RATES, plus the estimated cost of disconnecting and reconnecting the lamp.
8. Rearrangement of Facilities: Where Customer requests changes to, or rearrangement of, existing facilities, such changes shall be at Customer's expense.

(continued)

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Rhonda J. Simmons
Secretary

Schedule No. ELDS-1

ELECTRIC LIGHTING DELIVERY SERVICE

9. **Contracts:** Service to lighting installations shall be for contract terms as agreed upon between Utility and Customer within limitations prescribed by applicable law. The initial term of the contract shall commence as lighting units are energized for service.
10. **Income Tax on Contributions:** Whenever, under the provisions of this Rate Schedule, a contribution is required, such contribution shall be increased by a factor of 33 percent to offset the effect of income taxes imposed by the Tax Reform Act of 1986.
11. **Lighting Line Extension Allowance:**
- A. Utility shall make a maximum free extension allowance of \$0.04/kWh times the Utility's estimate of the annual kWh consumption for extension of primary distribution facilities up to the lighting unit or lighting district. Service drops to the lighting units are considered a part of the street light system and are included in the street light system costs.
 - B. For Customer-Owned lights, Customers shall be required to pay the Utility for the installation of the metering and controls necessary for lighting service.
 - D. For Utility-Owned lights, Customer shall be required to pay the Utility for the installation of the meter and non-standard controls necessary for lighting service.
12. **Delivery Point:** Delivery shall be made from the Utility's electric system, at a point or points agreeable to the Utility. Where an installation is metered, the meter shall be at a suitable location that is agreeable to the Utility.

SERVICE AND RATES SUBJECT TO COMMISSION JURISDICTION: All rates and service conditions under this Rate Schedule are governed by the rules and regulations of the Public Service Commission of Montana and are subject to revision as the Commission may duly authorize in the exercise of its jurisdiction.

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Agenda No. 02-06-25

Effective for service rendered on or after
July 1, 2002

PUBLIC SERVICE COMMISSION

Rhonda Gimmans
Secretary

APPENDIX E SAMPLE STREET LIGHTING AGREEMENT

THIS AGREEMENT, effective this ____ day of _____, __, by and between NorthWestern Energy, a division of **NorthWestern Corporation**, doing business at 40 East Broadway Street, Butte, Montana 59701, hereinafter called the "**Company**" and THE CITY OF BILLINGS, a municipal corporation organized under the laws of the State of Montana, whose mailing address is PO Box 1178, Billings, Montana 59103, hereinafter called the "City".

WITNESSETH:

WHEREAS, Special Improvement Lighting Maintenance District No. ____ has been duly and regularly created by the City Council of the City of Billings, Montana for the purpose of providing new 100 Watt high pressure sodium (HPS) street lighting within the boundaries of said District; and

WHEREAS, the **Company is willing to supply, install, operate and own the facilities within** said lighting district(s), and furnish electrical energy to and maintenance for said lighting district(s), upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties hereto, it is agreed as follows:

SECTION 1. INSTALLATION OF NEW FACILITIES

The said facilities shall be of the type hereinafter specified and shall be installed at the locations and according to the specifications of the City given prior to the commencement of the work.

- (a) Type of facilities: 49 single mount: 1 twin mounted 100 watt, HPS, decorative pendant Cone style fixtures mounted at 20 feet on black fiberglass poles served by underground wire.
- (b) Locations: There will be 50 units spaced and located in accordance with the map of said lighting district on file in the office of the City Engineer of the City of Billings, Montana. Type of equipment and number of lights may be modified only by the written consent of the parties hereto.

SECTION 2. OWNERSHIP

The facilities to be constructed and installed are, and shall remain, the property of the Company.

SECTION 3. MAINTENANCE, OPERATION AND REPAIR

- a. Company agrees to operate and perform ordinary maintenance of the Facilities. Lights shall be turned on at dusk and turned off at dawn each day during the term of this Agreement.
- b. The charges specified herein are based on normal conditions and do not cover charges for extraordinary repair and/or replacement costs.
- c. Company will make necessary repairs and replacements within a reasonable time after receiving notice of any outage or other damage to the facilities. The Company shall have no obligation to patrol the facilities to determine that they are in operating condition.

SECTION 4. SUPPLY OF ENERGY TO SYSTEM

The Company agrees to supply electrical energy to said street lighting system for the charges hereinafter specified.

SECTION 5. CHARGES

a. The City undertakes and agrees to pay the Company for furnishing, operating and maintaining, as provided herein, **said street lighting system to be constructed and owned by the Company** and for supplying electrical energy thereto. **The charge for each lighting unit shall be based on the rate schedule approved by the Montana Public Service Commission (PSC)** and in effect at the time the lighting unit(s) are installed, subject to amendment or revision with prior PSC approval. The initial rate for each single mount unit is \$31.24 per month; twin mount is \$35.84 per month.

If additional units are subsequently installed by mutual consent of the parties hereto, the charges for such additional lights shall be in accordance with the rates in effect at the time said installations are made, subject to amendment or revision with prior PSC approval.

b. The Company shall have the right to make additional charges to City for the cost of labor (including applicable overheads) and the actual material cost for repairs to and/or replacement of street lighting facilities that are extraordinary repairs and/or replacement costs.

c. Bills for said services shall be due and payable in cash or valid warrants when rendered each month and will become delinquent thirty (30) days thereafter.

SECTION 6. FORCE MAJEURE

a. The Company shall not be liable for failure to comply with any of the terms and conditions of this Agreement where such failure is caused by acts of God, government regulations or orders, strikes or labor difficulties, fires, floods, droughts, riots, destruction of property, or by any other cause beyond its reasonable control.

b. If the Company is unable to fulfill any obligation by reason of a cause beyond its reasonable control, then it shall notify the City and the Company shall use its best efforts to complete the work in a timely manner.

SECTION 7. TERM

This agreement shall be and remain in full force and effect for a period of two (2) years and eleven (11) months from the date hereof, and shall thereafter continue in force and effect for successive periods of two (2) years and eleven (11) months each, until and unless terminated by either party giving to the other party notice in writing at least sixty (60) days prior to the expiration of the initial term hereof, or any renewal thereof, of its intention to terminate this agreement at the expiration of such initial term or any renewal. If, however, the customer terminates this Agreement before the Company recovers its installation costs, the Customer agrees to reimburse the Company for the remaining installation costs.

SECTION 8. LIABILITY, RELEASE AND LIMITATION OF LIABILITY

a. The Company, in the construction, maintenance and operation of the street lighting system provided for herein, shall use reasonable care and shall indemnify, hold harmless and defend the City of Billings of and from any and all damages, injuries and expenses of any kind, including attorney's fees, caused by the negligence, acts or omissions of the Company, its agents, representatives, or employees, or by the failure of the Company to comply with the provisions of this Agreement.

b. If this Agreement terminates, City shall under no circumstances be entitled to claim or recover consequential damages of any nature arising, or claimed to have arisen, as a result of said termination.

SECTION 9. INDEPENDENT CONTRACTOR

For any services performed hereunder, Company is an independent contractor, responsible to the City only as to the results to be obtained and to the extent that the services shall be done in accordance with any plans or specifications furnished by the City.

SECTION 10. APPLICABLE LAW

a. This Agreement shall be governed in all respects by the laws of the State of Montana.

b. All hiring by the parties will be on the basis of merit and qualifications. The parties may not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability or national origin.

c. Company shall have and maintain complete control over all of its employees, subcontractors, agents and operations, being responsible for any required payroll deductions and providing required benefits, such as, but not limited to, workers' compensation and unemployment insurance.

SECTION 11. TERMINATION

Either party may terminate this Agreement if the other party defaults in performance or breaches any of the terms of this Agreement and fails to cure such default or breach within thirty (30) days after written notice of such default.

SECTION 12. INSURANCE

Without limiting any of the Company's obligations hereunder, Company shall provide and maintain comprehensive general liability and automobile liability insurance adequate to secure its indemnity obligation hereunder. City shall have the right to request proof of such insurance coverage.

SECTION 13. BINDING EFFECT AND ASSIGNMENT

a. This Contract shall be binding upon and shall inure to the benefit of the heirs, legal representatives, successors and assigns of the parties.

b. Either party may assign this Agreement upon written consent of the other party.

SECTION 14. NO THIRD PARTY BENEFICIARY

This agreement is for the exclusive benefit of the parties and shall not constitute a third party beneficiary

agreement and shall not be relied upon or enforced by a third party.

SECTION 15. AUTHORITY

Each party represents that it has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to sign this Agreement.

SECTION 16. INTEGRATION

This Agreement constitutes the entire agreement of the parties. Covenants or representations not contained in this Agreement shall not be binding upon the parties.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate by their duly authorized officers.

NORTHWESTERN ENERGY L.L.C.

By: _____

Billings _____

Date: _____

THE CITY OF BILLINGS

By: _____

Mayor

Date: _____

ATTEST: _____

City Clerk

APPENDIX F SAMPLE STREET LIGHTING RESOLUTION

RESOLUTION NO. 02-17863

A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICT NO. 277 OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF SECURING AND PROVIDING ENERGY AND MAINTENANCE FOR NEW HIGH PRESSURE SODIUM VAPOR LIGHTS, SETTING THE BOUNDARIES THEREOF, STATING THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE, ESTABLISHING THE ESTIMATED RATE FOR ENERGY AND MAINTENANCE THEREOF, AN APPROXIMATE ESTIMATE OF THE COST OF MAINTAINING SUCH LIGHTS AND SUPPLYING ELECTRICAL CURRENT THEREFORE FOR THE FIRST YEAR, AND THE PROPORTION OF THE COST TO BE ASSESSED AGAINST THE ABUTTING PROPERTY, AND THE METHOD OF ASSESSMENT OF SAID COSTS.

WHEREAS, the City Council of the City of Billings, Montana, on the 10th day of June, 2002, passed Resolution 02-17845, a Resolution of Intention to Create a Special Improvement Lighting Maintenance District designated as No. 277, setting the hearing on the creation of said District and hearing of protests against the extent and creation of said District, or any matter pertaining thereto, and thereafter gave notice by publication and mailing, all as required by law, and at said hearing which was held at the time and place specified in said Notice, all protests were heard and considered; and

WHEREAS, the City Council finds that the protests are insufficient to stop the creation of said district, and the protests are overruled and denied.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

SECTION 1:

That the City Council of the City of Billings, Montana does hereby create a District, to be known and designated as Special Improvement Lighting Maintenance District No. 277, hereinafter called the District, for the purpose of securing and providing energy and maintenance for new street lights for lighting said District.

SECTION 2:

That the boundaries of the District are as set forth in Resolution of Intention No. 02-17845, hereinafter called the Resolution, on file in the office of the City Clerk of Billings, Montana, and by this reference is incorporated herein and made a part hereof.

RESOLUTION NO. 02-17863

SECTION 3:

That the City Council hereby finds and determines that each of the lots, blocks, pieces and parcels of land, situated within the boundaries of the District, are especially benefited and affected by said improvements, and each and all of the lots, blocks, pieces and parcels, more particularly described in the Resolution are hereby declared to be the property to be assessed for the cost and expense of the electrical energy for and maintenance of said District.

SECTION 4:

That the general character of the improvements to be made is hereby declared to be as described in the Resolution and is by this reference incorporated herein and made a part hereof.

SECTION 5:

That the City of Billings intends to establish the approximate contract rate for supplying materials, installation, electrical energy, and maintenance as follows:

\$32.94 per 100 watt unit, in accordance with the rate schedule LS-1
approved by the Montana Public Services Commission.

That NorthWestern Energy shall provide energy to the lighting fixtures and shall provide normal maintenance to lighting fixtures, poles, cables and other incidental equipment, and at all times own said lighting fixtures, poles, cables and other incidental equipment. Property owners within said district shall be assessed for the costs thereof.

SECTION 6:

That based upon the above figures, the estimate of the cost of the District for the first year is the sum of \$9,091.44, and that the entire cost of said District shall be paid by the owners of property within said District. The estimated cost of the District per year for the property owners is on the basis of approximately \$0.014302115 per square foot per year. Due to the difference in time the lighting service starts and the time assessments can be levied, the first assessment may cover a period of operation of the District less than or greater than one year. All of such costs of said District shall be paid by the owners of the property within the District with each lot, parcel or piece of land within said District to be assessed for that portion of the whole

RESOLUTION NO. 02-17863

cost which its area bears to the area of the entire District, exclusive of streets, avenues, alleys and public places.

SECTION 7:

That the entire cost of the District shall be paid by an annual assessment against the property in the District. That all monies derived from the collection of such assessments shall be paid into a fund to be known as the "Special Improvement Lighting Maintenance District No. 277 Maintenance Fund", and warrants shall be drawn on said fund for the payment of such cost of maintaining said lights and supplying electrical current therefore.

SECTION 8:

That reference is hereby made to the Resolution, the maps, specifications, boundaries, perimeter and data pertaining to the District, on file in the offices of the City Clerk and City Engineer, for further particulars, all of which are made a part hereof.

PASSED by the City Council of the City of Billings, Montana and approved this 8th day of July, 2002.

THE CITY OF BILLINGS:

BY: _____
Charles F. Tooley MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AE CITY CLERK